

Notice of Allowability

Application No.

10/045,934

Examiner

Thomas H. Parsons

Applicant(s)

BUSHONG ET AL.

Art Unit

1745

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment filed 27 October 2004.
2. ☒ The allowed claim(s) is/are 1-23 and 55-106.
3. ☒ The drawings filed on 27 October 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Response to Amendment

This is in response to the Amendment filed 27 October 2004.

Drawings

1. The objection to the drawings because of minor informalities has been **withdrawn** in view of Applicants' Amendment.

Specification

2. The objection to the disclosure because of minor informalities has been **withdrawn** in view of Applicants' Amendment.
3. The objection to the specification as failing to provide proper antecedent basis for claimed subject matter has been **withdrawn** in view of Applicants' Amendment.

Claim Objections

4. The objection to claim 10 because of minor informalities has been **withdrawn** in view of Applicants' Amendment.

Claim Rejections - 35 USC § 102

5. The rejections of claims 1-3, 5, 7-8, and 15-21 under 35 U.S.C. 102(b) as being anticipated by Epstein (4,034,552) have been **withdrawn** in view of Applicants' arguments, see pages 23, items V and VI.

Claim Rejections - 35 USC § 103

6. The rejection of claim 4 under 35 U.S.C. 103(a) as being unpatentable over Epstein has been **withdrawn** in view of Applicants' arguments, see pages 23, items V and VI.

7. The rejections of claims 6 and 10-14 under 35 U.S.C. 103(a) as being unpatentable over Epstein as applied to claims 5 and 1 above, and further in view of Belove (3,622,397) have been **withdrawn** in view of Applicants' arguments, see pages 23, items V and VI.
8. The rejection of claim 9 under 35 U.S.C. 103(a) as being unpatentable over Epstein as applied to claim 1 above, and further in view of Vu et al. (5,691,073) has been **withdrawn** in view of Applicants' arguments, see pages 23, items V and VI.
9. The rejection of claim 22 under 35 U.S.C. 103(a) as being unpatentable over Epstein as applied to claim 1 above, and further in view of Horn et al. (3,097,975) has been **withdrawn** in view of Applicants' arguments, see pages 23, items V and VI.

Response to Arguments

10. Applicant's arguments, see page 23, items IX.1 through page 27, item IX.7., filed 27 October 2004, with respect to new claims 55-106 have been fully considered and are persuasive.

EXAMINER'S AMENDMENT

11. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Adam Forman on 23 November 2004.

The application has been amended as follows:

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Claim 82, line 3, "disposed in the cavity" has been deleted;

Claim 99, line 4, "cavity" has been changed to --chamber--;

line 4, "an" has been inserted before "end";

Claim 105, line 4, "cavity" has been changed to --chamber--; and,

line 5, "an" has been inserted before "end".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas H. Parsons whose telephone number is (571) 272-1290. The examiner can normally be reached on M-F (7:00-4:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thomas H Parsons
Examiner
Art Unit 1745

Patricia Ryan
SPB - 201742